

## **MAY PROGRESS REPORT TO THE SENATE JUDICIARY COMMITTEE ON THE STATUS OF INTER-INDUSTRY NEGOTIATIONS ON COPY PROTECTION TECHNOLOGY**

AOL Time Warner and Intel are pleased to submit this first bi-monthly update letter to the Committee following the hearing held on March 14, 2002.

### Joint Statement of Principles

Shortly following the hearing, we submitted a Joint Statement of Principles that articulated our shared perspective on the content protection issues in the digital age. Each of our companies has received positive feedback on the joint statement from a number of other companies in the content, consumer electronics and information technology sectors.

On April 4, 2002 News Corporation issued a press release wherein Peter Chernin, President and COO, commented that the principles set forth in the joint statement “. . . are similar to what I outlined in my testimony to Congress as the issues that need to be solved in a collaborative manner. News Corporation applauds and supports this positive step and looks forward to working with Intel and others to help us solve the growing problem of digital piracy.” On April 24, 2002 Toshiba Corporation issued a press release in which Toshiba “applauds the recent AOL Time Warner-Intel Corporation Joint Statement of Principles and wishes to express its support for multi-industry cooperation in addressing the issues surrounding the distribution, protection and consumption of digital entertainment content.” We are hopeful that more companies will issue similar public statements in the future.

Multi-industry efforts continue to make progress in establishing solutions for reducing the flow of digital content to unauthorized distribution channels. Below is a progress report on some of the most active current efforts.

### Broadcast Protection

Terrestrial digital television broadcasts that are transmitted in an unprotected form (i.e. “in the clear”) are readily subject to unauthorized redistribution. To develop a solution for protecting this content within the home and personal environment, the multi-industry Copy Protection Technical Working Group has established a Broadcast Protection Discussion Group (BPDG) to address this issue in an expedited manner. Through the BPDG’s efforts to date, significant agreement has been reached on an approach for directing broadcast content into a protected environment as soon as it is received within the home. This approach preserves the consumer’s ability to use broadcast content within the home and places no restrictions on its use other than keeping the content in the protected environment to prevent unauthorized redistribution. Thus, for example, this approach permits consumers to make permanent copies of broadcast content for personal use.

On April 25, 2002 an important agreement was reached between Computer Industry Group companies, 5C companies, and MPAA member companies on a proposal for

resolving certain outstanding issues with respect to the BPDG requirements document and the criteria for approving third party protection technologies for use with broadcast content. The BPDG is currently scheduled to release its final report by the end of May.

#### Watermark

A bidding, evaluation and selection process for a watermark technology suitable for use with video content is being conducted by the DVD Copy Control Association (“DVD CCA”). The DVD CCA’s selection process relates to using a watermark to provide a tool for preventing the recording and playback of unauthorized content on DVD products. . It had been anticipated that a final selection would be made by May 1, 2002. A number of unresolved legal, technical and implementation issues prevented the current Board of Directors of the DVD CCA from making a selection. The Board, however, did take action to extend the deadline for its ability to make a selection until August 1, 2002. Employees of both Intel and AOL Time Warner serve on the Board so we are able to report first hand that the Board is working diligently to try to resolve the various issues so that a watermark of acceptable technical effectiveness can be selected with acceptable legal and technical implementation obligations to all affected industry sectors. A successful watermark selection by the DVD CCA will be a critical step towards building a more complete content protection system architecture; however, further work involving watermark technology—including issues of implementation and enforcement—will be necessary to solve the so-called analog hole.

These efforts demonstrate that considerable progress is being made to address the challenges associated with general problem of unauthorized reproduction and distribution of copyrighted content. As they conclude, we anticipate that formal, cross-industry discussions (including consumer organizations) will commence on the additional challenges associated with the specific form of unauthorized reproduction and distribution of copyrighted content over peer-to-peer networks and services. The current efforts on broadcast protection and the watermark will—if successful—complement the many other efforts to distribute content to and within the consumer’s home in a protected manner (as described in the Joint Statement). These efforts will contribute to the solution of the peer-to-peer problem by reducing the ready availability of “in the clear” content to such services.